

**Minutes (Draft)**  
**FORENSIC SCIENCE BOARD MEETING**  
**February 7, 2007 at 10:00 a.m.**  
**DFS Central Laboratory, Training Room 1**

Board Members Present:

Mr. Steven Benjamin  
Mr. Joseph Bono  
Mr. Leonard Cooke  
Ms. Rochelle Altholz (designee for Dr. Marcella Fierro)  
Mr. Karl Hade  
Mr. Robert Jensen  
Mr. Alan Katz (designee for Ms. Marla Decker)  
Ms. Demris Lee  
Mr. S. Randolph Sengel

Board Members Absent:

Colonel W. Steven Flaherty  
Sheriff F. W. Howard  
Ms. Elizabeth Russell  
Senator Kenneth Stolle

Staff Members Present:

Ms. Wanda Adkins, Office Manager  
Dr. David Barron, Central Laboratory Director  
Mr. Gene Colburn, Human Resources Analyst  
Ms. Leslie Ellis, Human Resources Director  
Ms. Michele Gowdy, Department Counsel  
Ms. Meghan Kish, Board Secretary  
Mr. Ron Layne, Director of Administration and Finance  
Ms. Elise Mirza, Policy Analyst  
Mr. Kevin Patrick, Western Laboratory Director  
Ms. Susan Scholl, Eastern Laboratory Director  
Mr. Steve Sigel, Deputy Director

Call to Order:

Mr. Sengel called the meeting to order at 10:00 a.m.

Adoption of Agenda:

Mr. Sengel informed the Board that “Scientific Advisory Committee Report” was to be added to the agenda following item V. Director’s Report. He asked if there were any objections. There were none. The agenda with the one amendment was unanimously passed.

Introduction of DFS Director:

Mr. Sengel introduced Mr. Peter Marone, appointed by the Governor to serve as the Director of the Department of Forensic Science. Mr. Marone was congratulated on his new position.

Chairman’s Report:

Mr. Sengel had nothing new to report.

Director’s Report:

Mr. Marone directed the Board’s attention to the graphs that had been provided, and explained that the examiners’ voluntary overtime, combined with the usage of marijuana field test kits, had reduced the drug section backlog from a high of 16,000 cases in October of 2005, to under 4,000 cases currently in backlog. Additionally, turnaround time had been reduced from a period of 6-7 months to only 40 days, a number which continues to drop. Mr. Marone reported that firearms, latents, and forensic biology were also seeing positive results from examiner overtime. Although he stated that the forensic biology section has not seen significant backlog reductions since the last meeting, the addition of 10 new examiners this month is expected to make progress in that area.

The firearms section in the eastern laboratory has just entered into a pilot program with the Norfolk Police Department and FTI (who oversee NIBIN, the national firearms tracking system) that allows the police to conduct the test fires and submit the cartridges directly to the Florida-based FTI, who will run them through NIBIN. Those weapons that are matched are then submitted to the Eastern Laboratory. This program, Mr. Marone explained, should help to significantly reduce the number of submissions to the Department, and will hopefully be expanded if it proves to be successful.

Mr. Marone reported that the next step of the post-conviction testing project was just beginning. Roughly 260,000-270,000 files from the Central and Northern laboratories had been searched and cataloged. From these files, approximately 3,000 have been identified to contain evidence, and are being forwarded to Department examiners to determine whether the evidence they contain is conducive to the post-conviction testing. The Department has already received conviction information on roughly 50% of the first batch of cases that have been researched for conviction information, and will be sending them off to the private laboratory for testing. He explained that 10 or 12 of those cases will be analyzed by the outside lab after an inspection of such lab by Mr. Jeff Ban and Ms. Lisa Schiermeier-Wood. He reported that once it is determined that the initial analyses have been successfully completed, the outside lab will begin testing on the cases

that fit selection criteria. At the request of Mr. Benjamin, Mr. Marone clarified that cases with convicted suspects will be given first priority, in light of the exonerations that had taken place after the first initial review.

Mr. Marone also reported that the Department had applied for a post-conviction testing grant through NIJ, and will hopefully be receiving the requested funds to financially support this undertaking.

Mr. Bono and Mr. Benjamin publicly acknowledged former Department Director Paul Ferrara, and thanked him for his efforts in starting this review. Dr. Ferrara in turn acknowledged that former Governor Warner had been instrumental in beginning the review.

Mr. Marone reported that laboratory expansion continued for several laboratories. Central administration was due to move into a building across the street in Fall 2007, and groundbreaking was set to begin May for the new Northern Laboratory. Additionally, the Eastern Laboratory completed an expansion of their DNA section, and is set to begin leasing the floor above the laboratory to provide additional space. Mr. Marone also reported that the mitochondrial lab, which had been completed by the November meeting, is now fully staffed, with the new scientists set to begin their training at AFDIL next week.

Mr. Benjamin inquired whether a technical leader for the mitochondrial DNA lab had been selected yet, to which Mr. Marone replied that yes, one had been selected from the Department's Forensic Biology staff.

Mr. Jensen inquired as to the number of cases the Department expected to see submitted to the new mitochondrial section. Mr. Marone informed him that the section had been staffed to accommodate the estimated number of 100-150 cases per year.

Mr. Marone next reported on the status of funding for the purchase of new breath alcohol instrumentation. The 2007 Budget grants roughly half of what was requested to replace the current instrumentation.

Mr. Benjamin asked if there was anything the Board could do to assist the Department in seeking additional funding. Discussion continued regarding other possibilities.

Mr. Benjamin made a motion that if, after review with Department Counsel, there is an agreement that it is appropriate to do so, then the Chairman of the Board will communicate to the appropriate individuals at the General Assembly the need for additional funding for the replacement of the current breath alcohol instrumentation.

The motion was seconded. Mr. Cooke and Mr. Hade recused themselves from the vote. The motion passed unanimously, with two abstentions.

Mr. Marone next referred to the budget addendum that had been supplied to the Board, and explained the different areas for which funding had been sought, as well as what had not been received. He responded to several questions from the Board members regarding individual fields.

Finally, Mr. Marone summarized the additional report provided along with the Department's audit by the APA, and explained that, although the necessary procedures for IT security were in place, they weren't properly documented. Since the issuance of the report, the Department has begun the process of documenting all the IT security procedures.

#### SAC Chairman's Report:

Mr. Bono reported that, in addition to the issues Mr. Marone had just described, the Scientific Advisory Committee had discussed the progress of the familial search subcommittee that had been formed during the August meeting. He announced that Dr. Dan Krane had been appointed chair, and would serve along with Dr. Bieber, Mr. Denio, Dr. Eisenberg, and Ms. Lee. Mr. Jeff Ban and Mr. George Li, of the Department's Forensic Biology Section, would provide support.

Mr. Bono also reported that the Scientific Advisory Committee had selected Tuesday, August 7, 2007 as their next meeting.

Mr. Bono explained that the terms of four Committee members were due to expire in June, and that the Committee had asked Ms. Gowdy to contact the Secretary's Office regarding the process of submitting names for consideration.

Ms. Gowdy stated that there were three separate methods: 1. write a letter suggesting names, providing resumes and other letters of reference for the individual(s). 2. Nominate individuals using the Secretary's website. 3. Individual can apply for the position themselves using the website.

#### Legislation Update:

Ms. Gowdy reported to the Board that there are three bills affecting the Department currently before the General Assembly.

House Bill 2760 will affect the Marijuana Field test kits in that a request for full chemical analysis will have to be made 10 days prior to trial. If the analysis is unavailable by the time of trial, a continuance will be granted.

House Bill 2790 provides that, if the accused requests the examiner or a person in the chain of custody to testify and the witness is unavailable, a continuance will be granted.

House Bill 3034 deals with the DNA data bank. It will require the clerk of court, probation and parole, local jails, and the Department of Corrections all to verify whether

or not a sample has been taken from an individual required to give a sample pursuant to statute. In addition, it will include a clause which will allow the Department to release cold hit information on samples that were submitted to the data bank in good faith.

#### Human Resources Report from SAC:

Mr. Colburn, Human Resources Analyst for the Department, gave a presentation of the Human Resources review of the current DNA platform's effect on staffing. He reported that no single trend was identified in the reasons examiners gave for leaving in their exit interviews, as the majority were for different personal reasons. Mr. Colburn also expressed that staffing was not a problem, due to the fact that, although 4 examiners have left, the Department has hired 12 new examiners in the past 12 months.

#### VIFSM:

Mr. Marone and Mr. Jensen explained to the Board that, over the last several days, the Department had been in negotiations with the Virginia Institute of Forensic Science and Medicine regarding the contract in place. Due to changes over the last several years in staffing and funding, a re-evaluation had been necessary. Mr. Marone reported that an agreement acceptable to both DFS and the Institute had been reached and an MOU is being drafted.

Mr. Benjamin expressed that he would like to see that document when completed.

#### Proposed DNA Regulations:

Ms. Gowdy next presented on the Department's draft of DNA regulations, "Regulations for Obtaining Information from the Data bank and Procedures for Verification and Authorization of Persons Requesting Information from the Data bank," which were developed in response to Virginia Code §19.2-310.5. Mr. Jensen inquired as to why the Medical Examiner's Office was not listed with the agencies permitted to make requests to search the databank. Ms. Gowdy explained that the agencies were taken directly from statute, and that the regulations must parallel the statute.

#### New Business:

Mr. Jensen asked if it would be possible for the Department to provide the Board members with a matrix of employment, regarding staffing numbers, backlogs, plans to meet goals, a list of Department subcontracts, and outsource information.

Mr. Marone responded that the Department can provide quarterly reports to the Board members, but explained that the only subcontract in place pertains to the post-conviction testing project currently underway.

#### Public Comment:

Mr. Sengel asked if there were any public comments. There were none.

Adjourn:

Mr. Sengel reminded the Board that the next meeting had been set for Wednesday, May 9, 2007 at 10:00 a.m. The meeting adjourned at 11:50 a.m.